

221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-478-2024
Date of decision : 12.01.2024

RASHPAL SINGHPetitioner

Versus

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Ajay Kumar, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.118 dated 08.11.2022 registered for the offences punishable under Sections 302/452/427/506/148/149 of the IPC, 1860 and Sections 25/27 of Arms Act, 1959 at Police Station Ramdas, Amritsar.

2. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.
3. Counsel for the petitioner relies upon the order dated 30.11.2023 passed by this Court in CRM-M-27737-2023 whereby co-accused Davinder Singh @ Pappi has been granted regular bail observing as under :

This petition has been filed under Section 439 Cr.P.C. for grant

of regular bail to the petitioner in case F.I.R. No.118 dated 08.11.2022 registered for the offences punishable under Sections 302, 452, 427, 506, 148, 149 and Sections 25/27/54/59 of Arms Act, at Police Station Ramdass, District Amritsar.

2. Custody Certificate of the petitioner has been produced. The same is taken on record.

3. FIR was registered on the statement made by Amarjit Singh son of Dilbagh Singh to the following effect :

“xxx I am the resident of above mentioned address, we are three brothers younger to me is Jobandeep Singh and youngest is Gurjant Singh. We are doing the agriculture, there is a land dispute with Rashpal Singh @ Happy, Sukhraj Singh @ Sukh and Charanjit Singh @ Channi sons of Balwinder Singh, Davinder Singh @ Pappi, Bhajan Singh sons of Jagir Singh, Inderjit Singh son of Rattan Singh, all resident of Gaggomahal, Police Station Ramdass with whom the dispute is pending. Today on 08.11.2022 at about 03:00 PM my younger brother Jobandeep Singh came back to our house after sowing wheat with our own tractor, I was standing at the gate of our house, then all the persons armed with rifle, pistol and datar-swords came through vehicles motorcycles and started abusing while standing in front of our house, from which Rachhpal Singh @ Happy, Sukhraj Singh @ Sukh and Charanjit Singh @ Channi sons of Balwinder Singh, Davinder Singh @ Pappi, Bhajan Singh sons of Jagir Singh, Inderjit Singh son of Rattan Singh, Harinder Singh son of Bhajan Singh, Tanu son of Davinder Singh, Palwinder Singh son of Jasbir Singh, all resident of Gaggomahal and 15/20 unidentified persons came. I can identify to them if they come in front of me. We to save the quarrel went inside of our house. I and my brother went on the roof, then from the assailants Davinder Singh's son Tanu raised lalkara to the effect that teach them a lesson of sowing wheat in their land. In the meantime, the above mentioned persons while raising lalkaras entered into our house, Harinder Singh son of Bhajan Singh who was armed with pistol and started firing directly, then Harinder Singh came to the roof through stairs and straightway with the intention to murder my brother Jobandeep Singh fired, which struck upon the backside of the neck of

Jobandeep Singh who fell down, I raised alarm Maar Ditta Maar Ditta, then all persons alongwith their weapons ran away through their vehicles by raising lalkaras. After arranging the vehicle I taken to hospital and on the way my brother died, all the occurrence has seen by me and my nephew Gagandeep Singh. The motive behind the occurrence that there is dispute of land with Davinder Singh @ Pappi is pending, in the said land the wheat crop was sown, but the above mentioned persons with the help of tractor they cultivated the wheat sown and after cultivating the wheat crop they attacked upon us, the fire struck upon my brother who died. The dead body lying in the hospital and to take care the dead body, Gurjant Singh was left there, then I and my uncle Dharam Singh were going to lodge a report and you met me. I got recorded my statement, legal action be taken. Sd/- Amarjit Singh.xxxx “

4. Counsel for the petitioner submits that the complainant Amarjit Singh appears as PW-1 and has not supported the prosecution. He has produced copy of the statement suffered by the complainant, dated 28th of November, 2023 before the Trial Court. The same reads as under :

“PW1 : Amarjit singh aged 38 years son of Dilbagh Singh, resident of village Harar Khurd, Tehsil Ajnala, District Amritsar on SA.

Stated that I am agriculturist. We are three brothers. Younger to me is Jobandeep Singh and younger is Gurjant Singh. We all agriculturists. We do not have any dispute regarding the landed property with the accused present in the court today and with the persons namely Sukhraj Singh @ sukh, Charanjit Singh @ Channi, Bhajan Singh, Harinder Singh, Tannu, Inderjit Singh, Palwinder Singh and any other person. Police did not record my statement. The accused present in the court are not those persons who had murdered my brother Jobandeep Singh. Unknown persons with muffled faces came to our house and gave fire arm injuries on the person of my brother Jobandeep Singh.

At this stage learned Addl. PP for the State requested that witness is suppressing the truth from the court

and is resiling from his previous statement made to the police and witness be declared hostile and permission be granted to cross examine the witness.”

5. As per the allegations levelled in the FIR, the injury caused upon the body of the deceased was attributed to Harinder Singh son of Bhajan Singh and the allegation against the petitioner was w.r.t. motive. However, while appearing before the Trial Court the complainant having not supported the prosecution this Court does not find any reason to prolong the custody of the petitioner as a punitive measure. Moreso when he has already suffered incarceration for last more than 1 year and 8 days

6. In view of above, without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

4. Counsel for the petitioner submits that the petitioner is behind bars for last more than 1 year, 1 month and 25 days. Investigation already stands concluded and challan stands presented and thus there can't be any apprehension that the petitioner shall tamper with the evidence.

5. State Counsel is not in position to dispute the aforesaid factual assertions made by counsel for the petitioner based on record.

6. I have heard counsel for the parties and have gone through records of the case.

7. In view of above, without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner

and granting parity *viz-a-viz* co-accused namely Davinder Singh @ Pappi, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

January 12, 2024	(Pankaj Jain)
Dpr	Judge
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No